

MEDICINE BOARD[653]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76 and chapters 148 and 272C, the Board of Medicine hereby gives Notice of Intended Action to amend Chapter 13, "Standards of Practice and Principles of Medical Ethics," and Chapter 23, "Grounds for Discipline," Iowa Administrative Code.

Chapter 13 establishes the standards of practice for a physician or surgeon or osteopathic physician or osteopathic surgeon who serves as a medical director at a medical spa. Subrule 23.1(43) establishes as a violation improper delegation and supervision by a medical director, pursuant to rule 653—13.8(148,272C).

The Board approved these amendments to its rules during a regularly scheduled meeting on September 3, 2009.

Any interested person may present written comments on these proposed amendments not later than 4:30 p.m. on October 27, 2009. Such written materials should be sent to Mark E. Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or E-mailed to mark.bowden@iowa.gov.

There will be a public hearing on October 27, 2009, at 11:30 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medicine office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapter 148.

The following amendments are proposed.

ITEM 1. Adopt the following new rule 653—13.8(148,272C):

653—13.8(148,272C) Standards of practice—medical directors at medical spas and delegation and supervision of medical aesthetic services performed by licensed or unlicensed nonphysician persons. This rule establishes standards of practice for physicians or surgeons or osteopathic physicians or osteopathic surgeons who serve as a medical director at a medical spa.

13.8(1) Definitions. As used in this rule:

"Delegation" means to entrust or transfer the performance of a medical aesthetic service to a licensed or unlicensed nonphysician person.

"Licensed or unlicensed nonphysician person" means a person who is not licensed to practice medicine and surgery or osteopathic medicine and surgery and may include persons licensed to practice other professions and unlicensed persons. "Licensed or unlicensed nonphysician person" shall not include advanced registered nurse practitioners.

"Medical aesthetic service" means a service which includes, but is not limited to, the following: ablative laser, vaporizing laser, and light device therapy; injectables; tissue alteration services; nonablative laser, nonvaporizing laser, and light device therapy; light-emitting diode therapy; intense pulse light therapy; radiofrequency therapy; ultrasonic therapy; superficial and nonsuperficial exfoliation; superficial and nonsuperficial microdermabrasion; superficial and nonsuperficial dermaplane exfoliation; superficial and nonsuperficial lymphatic drainage; and chemical peels.

"Medical director" means a physician who assumes the role of, or holds oneself out as, medical director or a physician who serves as a medical advisor for a medical spa. The medical director is responsible for implementing policies and procedures to ensure quality patient care and for the delegation and supervision of medical aesthetic services to licensed or unlicensed nonphysician persons.

“*Medical spa*” means any entity, however organized, which is advertised, announced, established, or maintained for the purpose of providing medical aesthetic services. “Medical spa” shall not include a dermatology practice which is wholly owned and controlled by one or more Iowa-licensed physicians or advanced registered nurse practitioners if at least one of the owners is actively practicing at each location.

“*Supervision*” means the general oversight of a licensed or unlicensed nonphysician person who performs a medical aesthetic service delegated by a medical director.

13.8(2) Medical director. A physician who serves as medical director at a medical spa shall:

- a. Hold an active, unrestricted Iowa medical license to perform each delegated medical aesthetic service;
- b. Possess the appropriate education, training, experience and competence to safely perform each delegated medical aesthetic service;
- c. Retain responsibility for the outcome of each delegated medical aesthetic service;
- d. Be responsible for advertising activities; and
- e. Be clearly identified in all advertising activities, Internet Web sites and signage related to the medical spa.

13.8(3) Delegated medical aesthetic service. When a medical director delegates a medical aesthetic service to a licensed or unlicensed nonphysician person, the service shall be:

- a. Within the delegating medical director’s scope of practice and medical competence;
- b. Of the type that a reasonable and prudent physician would conclude is within the scope of sound medical judgment to delegate; and
- c. A routine and technical service, the performance of which does not require the skill of a licensed physician.

13.8(4) Supervision. A medical director who delegates performance of a medical aesthetic service to a licensed or unlicensed nonphysician person is responsible for providing appropriate supervision. The medical director shall ensure that:

- a. All licensed or unlicensed nonphysician persons are qualified and competent to safely perform any delegated service by personally assessing the person’s education, training, experience and ability;
- b. All licensed or unlicensed nonphysician persons do not perform any services which are beyond that person’s competence or the scope of that person’s license, certification or registration;
- c. Licensed or unlicensed nonphysician persons regularly receive direct, in-person supervision from the medical director or a qualified designated physician;
- d. The medical director or a qualified designated physician regularly reviews a representative sample of patient charts for services performed by a licensed or unlicensed nonphysician person;
- e. The medical director or a qualified designated physician is physically located within a reasonable distance from the site where a licensed or unlicensed nonphysician person performs delegated services;
- f. The medical director or a qualified designated physician is available, in person or electronically, to consult with a licensed or unlicensed nonphysician person, particularly in cases of patient injury or emergency;
- g. Licensed or unlicensed nonphysician persons maintain accurate and timely medical records for the delegated services they perform;
- h. Each patient provides appropriate informed consent for delegated services performed by a licensed or unlicensed nonphysician person and that such informed consent is timely documented in the patient’s medical record;
- i. Each patient receiving delegated services performed by a licensed or unlicensed nonphysician person is informed of the identity of the medical director or qualified designee if requested; and
- j. The board receives written verification of the education and training of all licensed and unlicensed nonphysician persons within 14 days of a request by the board.

ITEM 2. Adopt the following new subrules 23.1(43) and 23.1(44):

23.1(43) Improper delegation and supervision by a medical director to a licensed or unlicensed nonphysician person, which includes, but is not limited to, violation of the standards of practice for

medical directors who delegate and supervise medical aesthetic services performed by the person as set out at rule 653—13.8(148,272C).

23.1(44) Failing to provide the board with written verification of the qualifications of licensed or unlicensed nonphysician persons within 30 days of a request made by board staff.